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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5739 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE AKIL KURESHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

MANGALJI B SARVAIYA

Appearance:

1. Special Civil Application No. 5739 of 2004

MS MONALI H BHATT for Petitioner No. 1

MR GK RATHOD for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE AKIL KURESHI

Date of decision: 23/07/2004

ORAL JUDGEMENT

By order dated 6.5.2004, this Court had issued rule and granted ad-interim relief in terms of para 9(C) of the petition. Though the matter is placed before me

for confirmation of interim relief, learned advocates appearing for the parties suggest that the matter can be finally disposed of. At their request, the petition is taken up for final disposal.

2. It is not in dispute that for some alleged misconduct, the respondent workman was, at the end of departmental inquiry, visited with penalty of reducing the pay to the minimum of the pay-scale for a period of five years by the order dated 19.7.97. It is also not in dispute that the respondent workman preferred appeal against the said order and the Appellate Authority by its order dated 2.5.98 was pleased to reduce the penalty to that of withholding of increments for a period of three years without future effect. It was also provided that the respondent shall not be entitled to arrears on the basis of the appellate order. This order of the Appellate Authority came to be challenged by the workman before the Industrial Tribunal which in turn by the impugned award allowed the reference and set aside the orders of penalty.

3. Learned advocate for the respondent submits that the respondent was aggrieved by the original order of the disciplinary authority and since the said penalty has been substantially reduced by the Appellate Authority, the respondent does not seriously object to the order of the Appellate Authority being upheld. He, therefore, submits that even if the petition is allowed and the award of the Labour Court is set aside, the order of the Appellate Authority would hold the field and the respondent workmen would agree to such a course of action.

4. Considering the submissions made and the concession of the learned advocate for the respondent, the impugned award of the Industrial Tribunal dated 21.5.2003 is quashed and set aside. The petition is accordingly allowed. Rule is made absolute with no order as to costs.

(Akil Kureshi, J.)
(vjn)